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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child

CAMBODIA

1. The Committee considered the initial report of Cambodia (CRC/C/11/Add.16), submitted on 18 December 1997, at its 629th and 630th meetings (see CRC/C/SR.629-630), held on 24 May 2000, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, which follows the guidelines for reporting, and of the written replies to its list of issues (CRC/C/Q/CAM.1). The Committee is encouraged by the constructive dialogue it had with the State party's delegation and welcomes the reactions to the suggestions and recommendations made during the discussion. The Committee also welcomes the presence of a high-ranking delegation directly involved in the implementation of the Convention which allowed the Committee to have a full assessment of the situation of the rights of the child in the State party.

* At the 641st meeting, held on 2 June 2000.

B. Positive aspects

3. The Committee welcomes Cambodia as a State party to the six major international instruments for the protection of human rights. The State party's ratification (1999) of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction is also welcomed.

4. The Committee welcomes the inclusion by the State party in its 1993 Constitution (art. 48) the protection of the rights enshrined in the Convention on the Rights of the Child.

5. The memorandum of understanding signed by the Government of Cambodia and the Office of the High Commissioner for Human Rights (1996), which established a programme of technical assistance and advisory services on human rights, including the rights of child, is welcomed by the Committee.

6. The Committee welcomes the measures taken by the State party to combat child labour such as the ratification in 1999 of the ILO Minimum Age Convention (No. 138) and the signing of a memorandum of understanding by the Government of Cambodia and ILO/IPEC in 1997.

7. The Committee welcomes the participation of non-governmental organizations in the preparation of the State party's initial report as well as in the implementation of the Convention.

C. Factors and difficulties impeding progress in the implementation of the Convention

8. The Committee notes with concern that the State party is facing many difficulties in the implementation of the Convention, in particular, owing to the legacy of more than 20 years of genocide, armed conflict and political instability as well as to the isolation suffered by the State party for many years. The Committee also notes that the State party's very difficult socio-economic situation is affecting the most vulnerable groups, including children, and hampers the enjoyment of their rights.

D. Principal areas of concern and recommendations

1. General measures of implementation

Legislation

9. While aware that the State party's legislative framework covers several provisions of the Convention and that efforts have been undertaken to draft new legislation, the Committee remains concerned that domestic legislation still needs to be reviewed and new laws enacted to fully respect the Convention. The lack of enforcement of the existing legislation is also a matter of concern.

10. The Committee recommends that existing laws be reviewed with a view to bringing them into line with the provisions of the Convention, in particular with general principles (arts. 2, 3, 6 and 12). Special attention needs to be paid to the areas of birth registration,

family and alternative care, and juvenile justice. The Committee further recommends that the State party include children's rights concerns in the current and future processes of drafting legislation, in particular the draft Civil, Criminal and Criminal Procedures Codes. In this regard, the Committee encourages the State party to continue to seek technical assistance from OHCHR and UNICEF, among others.

Coordination

11. Although the Committee welcomes the establishment of the Cambodian National Council for Children (CNCC), which is in charge of coordinating the implementation of the Convention, it expresses its concern about the Council's ability to carry out its mandate fully in an effective manner throughout the territory of the State party. In particular, concern is expressed at the Council's lack of human and financial resources.

12. The Committee recommends that the State party take effective measures, including through international cooperation, to strengthen the role of the Cambodian National Council for Children (CNCC) in coordinating the implementation of the Convention at the national, regional and local levels. Greater efforts should be made to provide the CNCC with more substantial human and financial resources and to establish closer cooperation and coordination with non-governmental organizations working in the field of children's rights.

Monitoring

13. The Committee is concerned at the State party's limited capacity to monitor the implementation of the Convention and at the absence of an independent mechanism to register and address complaints from children concerning violations of their rights under the Convention.

14. The Committee recommends that the State party consider establishing an independent mechanism (e.g. Ombudsperson for Children) to monitor the implementation of the Convention and to deal with children's complaints of violations of their rights in a child-friendly and expeditious manner, and to provide remedies for such violations. The Committee further suggests that the State party conduct awareness-raising campaigns to facilitate the effective use by children of the mechanism.

Data collection

15. The Committee welcomes the measures taken by the State party in the area of data collection, such as the Education Management Information System and the Health Information System. Nevertheless, concern is expressed at the lack of a systematic, comprehensive and disaggregated quantitative and qualitative data collection mechanism for all areas covered by the Convention, including child abuse and ill-treatment, children belonging to minority groups, girls, children in rural areas, and child victims of sale, trafficking and prostitution.

16. The Committee recommends that the State party continue with the development and strengthening of its data collection system, with a view to including all areas covered by the Convention. Such a system should include all children under 18 years of age and

specifically emphasize vulnerable groups of children as a basis for assessing progress achieved in the realization of children's rights and be used to help design policies for better implementation of the provisions of the Convention. In this regard, the Committee encourages the State party to seek international assistance from UNICEF, among others.

Budgetary allocations

17. While the Committee is aware that most of the State party's infrastructure and social services were destroyed as a result of decades of war, it expresses its concern at the insufficient attention paid to the provisions of article 4 of the Convention concerning budgetary allocations to the "maximum extent of ... available resources".

18. The Committee recommends that the State party give priority to ensuring that the maximum available resources are allocated to health, education and social services for children and that particular attention is paid to the protection of children belonging to vulnerable and marginalized groups. In this regard, the Committee encourages the State party to continue and foster open cooperation with the international community, in particular within the coordinated framework of the donors' Consultative Group on Cambodia.

Dissemination of the Convention

19. While aware of the measures undertaken to promote widespread awareness of the principles and provisions of the Convention, such as the inclusion of the Convention in school curricula, the Committee is of the opinion that these measures need to be strengthened.

20. The Committee recommends that the State party strengthen its efforts to disseminate the principles and provisions of the Convention in order to sensitize society about children's rights. Special emphasis should be placed on the dissemination of the Convention among minority groups as well as in rural and remote areas. The Committee encourages the State party to consider seeking technical assistance in this area from UNICEF and OHCHR, among others.

Training for professionals

21. The Committee welcomes the State party's efforts, in cooperation with OHCHR and UNICEF, in providing training for professionals working with and for children. Nevertheless, the Committee is of the opinion that current programmes need to be developed further in order to reach all groups of professionals.

22. The Committee encourages the State party to continue to undertake systematic education and training programmes on the provisions of the Convention for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers. Technical assistance from OHCHR and UNICEF, among others, could continue to be requested in this regard.

2. Definition of the child

23. The Committee is concerned at the lack of a clear legal definition of the child in the State party's legislation. In particular, concern is expressed at the lack of minimum legal ages of sexual consent and of criminal responsibility.

24. In light of the principles and provisions of the Convention, the Committee recommends that the State party include in its legislation a definition of the child. The Committee further recommends that the State party take into consideration, in the process of drafting its new legislation, the incorporation of minimum ages of criminal responsibility and sexual consent. Furthermore, the Committee recommends that the State party enforce the law on minimum age for marriage.

3. General principles

25. The Committee is concerned that the measures adopted to incorporate the general principles of the Convention in the State party's domestic legislation are insufficient.

26. The Committee recommends that the general principles of the Convention (i.e. non-discrimination (art. 2), the best interests of the child (art. 3), the right to life, survival and development (art. 6) and the respect for the views of the child (art. 12)) be included in all relevant legislation affecting children and taken into account in all administrative and judicial decisions, as well as in all policies and programmes related to children. Awareness-raising among the public at large, including community and religious leaders, as well as educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions regarding children as objects and not as subjects of rights.

Non-discrimination

27. With regard to article 2 of the Convention, the Committee expresses its concern at the existing patterns of discrimination on the grounds of gender, ethnic origin, HIV/AIDS status and disability. In particular, concern is expressed that the State party's Constitution refers only to the rights of Khmer citizens.

28. The Committee recommends that the State party ensure that all the rights enshrined in the Convention are enjoyed by all children, without any distinction. The Committee further recommends that the State party take effective measures to eliminate discrimination against girls, in particular with regard to their access to education. Efforts need to be made to eliminate discrimination against children living and/or working on the streets and children belonging to minority groups, especially of Vietnamese origin. Furthermore, the Committee endorses the recommendations made to the State party by the Human Rights Committee in 1999 (CCPR/C/79/Add.108, para. 17) and by the Committee on the Elimination of Racial Discrimination in 1998 (CERD/C/304/Add.54, paras. 11-13) in this regard.

4. Civil rights and freedoms

Birth registration

29. With regard to the implementation of article 7 of the Convention, the Committee expresses its concern that birth registration is not compulsory and consequently not all children are registered at birth.

30. The Committee recommends that the State party review its domestic legislation in accordance with the principles and provisions of the Convention, with a view to making birth registration compulsory for all children, without any type of discrimination. Children of non-Khmer citizens, regardless of their legal status, or refugees, when born in Cambodia, should always be registered at birth even if they are not entitled to Cambodian nationality. The Committee further recommends that the State party undertake effective measures to enforce the existing sub-decrees related to the Resident Book (No. 73) and the Family Book (No. 74), both of 1997, in particular to ensure that all children who were not registered at birth are registered. In addition, the Committee recommends that the State party conduct awareness-raising campaigns to encourage the registration of all children at birth. The Committee encourages the State party to consider seeking international cooperation from UNICEF and other international organizations to this end.

Nationality

31. The Committee is concerned that the State party's Law on Nationality (1996) might lead to discrimination against children of non-Khmer origin and might, in violation of article 7 of the Convention, leave as stateless a large number of children born in Cambodia, such as children belonging to minority groups.

32. The Committee recommends that the State party's Law on Nationality be reviewed in the light of the Convention with a view to eliminating all grounds of possible discrimination and eradicating and preventing children being stateless.

Participatory rights of children

33. With regard to children's participatory rights, concern is expressed at the insufficiency of the measures undertaken by the State party to promote the participation of children in the family, the community, the schools and other social institutions, as well as to ensure the effective enjoyment of their fundamental freedoms, including freedom of opinion, expression and association.

34. In light of articles 12-17 of the Convention, the Committee recommends that further measures, including legislation reform, be undertaken to promote the participation of children in the family, the school and other institutions, as well as to ensure the effective enjoyment of their fundamental freedoms, including the freedoms of opinion, expression and association. Public awareness of the participatory rights of children needs to be increased in families, communities, institutions and schools.

Access to appropriate information

35. The Committee is concerned at the lack of legislation to protect children from harmful information and material injurious to their well-being and development, as well as to guarantee their access to appropriate information.

36. In light of article 17 of the Convention, the Committee recommends that the State party enact special legislation to protect children from harmful information, in particular from television programmes and films containing brutal violence and pornography, and to guarantee their access to appropriate information. The Committee further recommends that the State party take into consideration the Committee's recommendations during its day of general discussion (1996) on the child and the media (CRC/C/57).

5. Family environment and alternative care

Children deprived of their family environment

37. The Committee is concerned that children tend to be placed in child welfare centres or children's homes rather than in foster care or adopted; at the lack of regulations for the operation of such centres; and at the increasing number of orphans owing to the HIV/AIDS epidemic and the limited measures available to cope with this situation.

38. The Committee recommends that the State party undertake effective measures to promote, through counselling and community-based programmes, the family as the best environment for the child and to empower parents to take care of their children in order to avoid placement in child welfare centres.

39. The Committee recommends that the State party develop policies and regulations regarding children's institutions and other forms of alternative care. Social services need to be strengthened and expanded to cover a larger number of children, in particular children orphaned by the HIV/AIDS epidemic, and alternative forms of care, such as foster families, need to be developed. The Committee further recommends that sufficient financial and human resources be allocated for these purposes. International technical and financial assistance in this regard is also recommended.

Adoption

40. While noting the State party's efforts in drafting a new intercountry adoption law that accords with the Convention and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993, the Committee remains concerned that the existing legislation on domestic adoption is not in accordance with the Convention and that existing adoption procedures are usually not respected and are reported to be marked by corruption and abuse. Concern is also expressed at the prevalence of illegal informal adoption.

41. The Committee encourages the State party to continue with the process of enacting its legislation on intercountry adoption and to undertake legislative reform of the existing legislation on domestic adoption. In this regard, the Committee takes note of the

State party's willingness to consider accession to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 and encourages it to do so. Furthermore, the Committee recommends that the State party strengthen the adoption bureau. International assistance could be sought from UNICEF, among others, in that regard.

Child abuse and ill-treatment

42. Concern is expressed at the insufficient awareness of the scope and harmful consequences of mistreatment and abuse of children, including sexual abuse, both within and outside the family; the insufficient resources, both financial and human, to prevent and combat child abuse; and the insufficient care and rehabilitation measures, including facilities available for child victims of abuse.

43. In light of articles 19 and 39 of the Convention, among others, the Committee recommends that the State party take effective measures, including setting up multidisciplinary programmes and care and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and other institutions, and in society at large. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes; adequate child-friendly procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking international cooperation from UNICEF and international non-governmental organizations to this effect.

6. Basic health and welfare

Right to survival and development

44. The Committee welcomes the international cooperation initiative "Strengthening Health Systems" between the Ministry of Health and several United Nations agencies (WHO, UNICEF, UNDP and UNFPA), which aims at rebuilding the Government's capacity in the development of a national programme for immunization, in particular against polio. Nevertheless, concern is expressed that the State party's infant mortality and under-five mortality rates remain among the highest in the region. Child malnutrition is also an area of concern.

45. The Committee recommends that the State party address the issue of childhood morbidity and mortality by taking a multisectoral approach recognizing the critical role of illiteracy, lack of clean water supplies and food insecurity in the current pattern of childhood illnesses. Priority areas must be identified on the basis of baseline data collected by careful and comprehensive research. Such a strategy must take into account that most health care takes place outside health facilities and outside State control; it must also recognize the needs of particularly isolated communities. In addition, the Committee recommends that measures be put in place for establishing an efficient primary health-care

sector, including strategies to encourage care-seeking for childhood illnesses. In this regard, the Committee encourages the State party to continue working in cooperation with international agencies.

Children affected or infected by HIV/AIDS

46. While aware of the measures taken by the State party for the prevention of HIV/AIDS and the care of infected persons, the Committee expresses its deep concern that the State party has the fastest growing rate of HIV/AIDS infection in the region and that children are among the most affected groups, in particular due to mother-to-child transmission.

47. The Committee recommends that the State party continue to take effective measures for the prevention of HIV/AIDS, including awareness-raising and educational campaigns. The Committee further recommends that the State party take into consideration the Committee's recommendations adopted on its day of general discussion on children living in a world with HIV/AIDS (CRC/C/80). International technical assistance from UNICEF, WHO and UNAIDS, among others, should continue to be requested in this regard.

Children with disabilities

48. The Committee expresses its deep concern that as a result of the prolonged armed conflict, the State party has one of the highest levels of disability in the world. In this regard, the Committee notes that most services for children with disabilities are provided by NGOs, which need substantial resources to maintain the current high standards of care and rehabilitation services.

49. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its day of general discussion on children with disabilities (CRC/C/69), the Committee recommends that the State party work in close collaboration with and support the activities of NGOs working in this field in order to develop early identification programmes to prevent disabilities; implement alternative measures to the institutionalization of children with disabilities; plan and carry out awareness-raising campaigns to reduce discrimination; establish special education programmes and centres and encourage the inclusion of disabled children in the educational system and in society; and establish adequate monitoring of private institutions for children with disabilities. The Committee further recommends to the State party to seek technical cooperation for the training of professional staff working with and for children with disabilities.

Right to health and health services

50. Concern is expressed at children's limited access to health services, due notably to the shortage of medical and public health personnel and the insufficient number of primary health centres, in particular in rural areas. Concern is also expressed at the high cost of health care and medicines, which lead families into debt and greater poverty.

51. The Committee recommends that health-care services and medicines be improved and extended in order to guarantee the access of children belonging to poor families and other marginalized groups.

Adolescent health

52. The Committee expresses its concern at the high maternal mortality rate, the limited access by teenagers to reproductive and sexual health education and counselling services, including outside the school system, and the low level of contraceptive use. Concern is also expressed that insufficient attention has been given to issues of adolescents' mental health.

53. The Committee recommends that the State party undertake a comprehensive and multidisciplinary study to determine the scope of adolescent health problems, including mental health, as a basis for promoting adolescent health policies and strengthening reproductive health education. The Committee also recommends that further efforts be undertaken for the development of child-friendly counselling services as well as care and rehabilitation facilities for adolescents.

7. Education, leisure and cultural activities

54. While welcoming the current efforts being carried out by the State party, in cooperation with international agencies, to improve its educational system, the Committee expresses its concern at the fact that primary education is not compulsory; that although enrolment rates in primary school are relatively high, equal access to quality education is not ensured owing to a lack of schools in rural and remote areas; that there are gender disparities in school attendance; that there are high repetition and drop-out rates; and that a majority of children belonging to minority groups do not have access to any form of education.

55. The Committee recommends that the State party continue to undertake effective measures to make primary education free and compulsory for all children; to increase the enrolment rates and decrease drop-out and repetition rates; to increase access to schools, in particular for poor children, girls, children belonging to minority groups and children living in remote areas. The Committee further recommends that the State party continue to take measures to improve its education system by increasing budget allocations for the education sector; providing training to upgrade teachers' skills; making the school curricula more relevant to children's needs; expanding opportunities for vocational training and non-formal education, including at pre-school and secondary levels; and establishing an evaluation system to measure the effectiveness of the education system.

8. Special protection measures

Refugee children

56. Concern is expressed at the lack of a legal framework for the protection of *unaccompanied, asylum-seeking and refugee children.*

57. The Committee recommends that the State party take the necessary measures to introduce legislation for the protection of the rights of refugee children, in line with the relevant international standards, and to develop a family reunification procedure to assist refugee children who might be separated from their families. Technical assistance from UNHCR could be sought in this regard.

Children affected by armed conflict

58. While welcoming the enactment of legislation prohibiting the military recruitment of children under 18 years and the State party's willingness to demobilize the remaining under-age soldiers in the army, the Committee expresses its concern at the insufficient measures for social reintegration and physical rehabilitation of former child soldiers. Concern is also expressed at the high number of landmines planted in the State party's territory during the recent armed conflict which represent a threat to the lives of children.

59. The Committee recommends that the State party take effective measures for the identification, demobilization and psychological rehabilitation and reintegration in society of child soldiers and to undertake awareness-raising campaigns for army officials to prevent the further recruitment of child soldiers. The Committee further recommends that the State party continue to work in cooperation with UNICEF for the rehabilitation and reintegration of under-age soldiers.

60. With regard to the problems of landmines, the Committee recommends that the State party increase budget allocations for demining in post-conflict areas and that awareness-raising campaigns be conducted to prevent mine-related accidents. Furthermore, the Committee recommends that the State party continue to work in cooperation with international agencies for the elimination of landmines.

Economic exploitation

61. The Committee is concerned about the large number of working children, including in the informal sector, in agriculture and in the family context. Concern is also expressed at the inefficient enforcement of existing labour laws.

62. The Committee recommends that the State party enforce the provisions of the Labour Law regarding the minimum age for access to employment; that labour inspectors be trained and provided with the means to monitor child labour; and that appropriate sanctions be applied to violators. The Committee further recommends that the State party enact legislation protecting children from hazardous forms of labour. The Committee acknowledges that the State party is considering ratification of the new ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 and encourages it to do so.

Sexual exploitation and trafficking

63. While welcoming the enactment of special legislation to combat sexual exploitation and the adoption of a five-year Plan of Action against Sexual Exploitation of Children (2000-2004)

and other related measures in this area, the Committee expresses its concern at the widespread phenomena of child prostitution and the sale and trafficking of children; the inadequate enforcement of the new legislation on these issues; and the shortage of trained people and institutions to provide rehabilitation to the victims.

64. The Committee recommends that the State party review its legislation with a view to reinforcing it, and in the meantime to enforce fully its current legislation against sexual exploitation; that the Plan of Action be fully implemented; that sufficient resources, both human and financial, be allocated for the implementation of the Plan; that social services for the rehabilitation of child victims of sexual exploitation be strengthened and expanded; that violators be prosecuted; and that bilateral cooperation, especially with neighbouring countries, be strengthened and border controls increased. The Committee suggests that the State party seek further technical assistance from OHCHR and UNICEF, among others.

Administration of juvenile justice

65. With regard to the situation of children in conflict with the law, concern is expressed at the lack of special legislation, policies and programmes in this area; at reports of children detained in prisons with adults; the situation of children detained for extended periods without being charged and without access to a lawyer or to a court; and the reports of detained children allegedly being subjected to beatings and other ill-treatment.

66. The Committee recommends that the State party establish a juvenile justice system, taking into account the principles and provisions of the Convention, in particular articles 37, 40 and 39, and other relevant United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The Committee further recommends that the State party develop a comprehensive policy and programmes regarding the situation of children in conflict with the law, with particular attention to the situation of children deprived of their liberty and to the prevention of juvenile delinquency. Furthermore, the Committee recommends to the State party to consider seeking technical assistance from OHCHR, the Centre for International Crime Prevention, UNICEF and the International Network on Juvenile Justice through the Coordination Panel on Juvenile Justice, among others.

Dissemination of reports

67. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned NGOs.